

Summary of Charity Care Requirements for Certificate of Need Applicants Establishing Ambulatory Surgery Facilities in Other States

Commission staff examined the expectations set for ambulatory surgery facilities in other states regarding charity care. Twenty-seven states regulate ambulatory surgery centers, but only a few of these states require a specific amount of charity care be provided or enforce a policy that some charity care must be provided. A discussion of the policies in these other states follows. Table 1 lists the states that regulate ambulatory surgery facilities through Certificate of Need review and which have requirements related to the provision of charity care.

Delaware

The Delaware Health Resources Board determines on an annual basis the amount of charity care to be provided by centers. Charity care includes non-reimbursed charges for services to income-tested patients who are uninsured or underinsured. Facilities also can meet the requirement for charity care by facilitating the development and operating of primary medical services to indigent persons. In 2008, Delaware hospitals provided two percent of gross patient revenue toward charity care, so the Delaware Health Resources Board requires freestanding surgery centers to also provide two percent of total gross patient revenue or greater.

Georgia

Georgia passed a law in 2008 that requires CON applicants seeking to establish or expand an ambulatory surgical facility to provide a “written commitment that unreimbursed services for indigent and charity patients in the service will be offered at a standard that meets or exceeds three percent (3%) of annual gross revenues for the service after Medicare and Medicaid contractual adjustments and bad debt have been deducted;”

Rhode Island

Rhode Island used to require a percentage of charity care for surgical facilities going through the certificate of need review process for a project. Now, facilities are required to have formal agreements with community health centers who serve as a source of referrals for surgery. The community health centers may be the ones to determine if a person qualifies for charity care, in which case a surgical facility does not need to repeat the process of determining eligibility for charity care. Facilities are also expected to have charity care policies and an outreach policy. At a minimum, facilities are expected to serve those at 100% of the federal poverty level. There is not annual reporting by all facilities on the amount of charity care provided. Instead, the focus is still on facilities that go through the certificate of need review process. There is follow-up after a certificate of need is granted to track whether the surgical facility is meeting its obligation to provide some charity care.

Virginia

In Virginia, the Commissioner can place a condition that “the applicant agrees to provide an acceptable level of charity care at a reduced rate to indigents.; ii) the Commissioner can authorize a project conditioned on the applicant’s agreement o provide charity care to persons with special needs; iii) the Commissioner can authorize a project conditioned on the applicant’s agreement to facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant’s service area.” A CON holder who fails to provide the amount of charity care required as a condition on the CON is allowed to make direct payments to organizations established under a MOU with the Virginia Department of Health.

Washington

In Washington, proposed ambulatory surgical facilities are expected to document that they will implement policies to promote and provide charity care that is “at least equal to or greater than the average percentage of total patient revenue other than Medicare and Medicaid, that affected hospitals in the planning area utilized to provide charity care in the last available reporting year.”

Table 1: Types of Charity Care Requirements in States with CON Coverage for Ambulatory Surgical Facilities

State	No Requirement	Track/Report Data on Charity Care	Charity Policy /Plan Required	Specific Amount Required
Alabama		x		
Alaska		x		
Connecticut	x			
Delaware		x	x	x
District of Columbia			x	
Georgia		x	x	x
Hawaii	x			
Illinois		x	x	
Iowa	x			
Kentucky	x	x		
Maine	x			
Maryland		x	x	
Massachusetts				
Michigan		x		
Mississippi			x	
Montana		x	x	
Nevada			x	
New Hampshire		x	x	
New York			x	
North Carolina		maybe only for CON application		
Rhode Island		only for CON application and follow-up on CON applications	x	
South Carolina		only for CON application	x	
Tennessee	x			
Vermont	x			
Virginia		x	x	x
Washington		x	x	x
West Virginia			x	

Sources: See list on the following page.

Sources

Overview of State CON Programs

<http://www.ncsl.org/default.aspx?tabid=14373#Regulated>

Alabama

<http://www.shpda.state.al.us/documents/conforms/conapp/CON%20Application%20ADOPTED%207-25-2002.pdf>

Alaska

http://www.hss.state.ak.us/dhcs/healthplanning/cert_of_need/PDFs/Application_Packet121205.pdf

http://www.hss.state.ak.us/dhcs/healthplanning/cert_of_need/PDFs/CON%20STATUTE%20AS%2018.07.010%20-%20AS%2018.07.111.pdf

http://www.hss.state.ak.us/dhcs/healthplanning/cert_of_need/PDFs/FILED%20STANDARDS%2012-12-05%20CON%20Phase%20II%20993-05-0145.pdf

Connecticut

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<http://www.ct.gov/ohca/lib/ohca/lawsandregspdf/policiesproceduresforpublicact10-179final10-25-10.pdf>

<http://www.cga.ct.gov/2011/pub/chap368z.htm#Sec19a-638.htm>

<http://www.ct.gov/ohca/lib/ohca/forms/outpatientsurgicalfacilityapp.pdf>

Delaware

<http://delcode.delaware.gov/title16/c093/index.shtml>

<http://dhss.delaware.gov/dhss/dph/hsm/files/hrmplan.pdf>

District of Columbia

[http://doh.dc.gov/doh/frames.asp?doc=/doh/lib/doh/services/administration_offices/shpda/pdf/certificate_need.pdf&group=1802&open=\[33200\].asp](http://doh.dc.gov/doh/frames.asp?doc=/doh/lib/doh/services/administration_offices/shpda/pdf/certificate_need.pdf&group=1802&open=[33200].asp)

http://doh.dc.gov/doh/frames.asp?doc=/doh/lib/doh/services/administration_offices/shpda/pdf/new_2007_health_plan.pdf

Georgia

<http://rules.sos.state.ga.us/docs/111/2/2/40.pdf>

Hawaii

<http://hawaii.gov/health/shpda/shcriteria.pdf>

<http://gen.doh.hawaii.gov/sites/har/AdmRules1/11-186.htm>

Illinois

<http://www.hfsrb.illinois.gov/pdf/CON%20APPLICATION%20REVISED%20NEW%2005-01-10%20FORM.pdf>

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=407&ChapAct=20%20ILCS%203960/&ChapterID=5&ChapterName=EXECUTIVE+BRANCH&ActName=Illinois+Health+Facilities+Planning+Act>.

<http://www.idph.state.il.us/rulesregs/rules-index.htm#77-II-a>

Iowa

http://www.idph.state.ia.us/adper/common/pdf/cert_of_need/iowa_code_2009.pdf

<http://coolice.legis.state.ia.us/cool->

[ice/default.asp?category=billinfo&service=iowacode&ga=83&input=135C#135C.1](http://coolice.legis.state.ia.us/coolice/default.asp?category=billinfo&service=iowacode&ga=83&input=135C#135C.1)

Kentucky

<http://chfs.ky.gov/NR/rdonlyres/5228990A-D941-4D0C-BD1C-E1E47B9E0776/0/2010updateto20102012SHPOct132010.pdf>

<http://www.lrc.state.ky.us/kar/900/007/030.htm>

Maine

“Chapter 10, 144, Chapter 503.” http://www.maine.gov/dhhs/dlrs/c_o_n/introduction.html

Maryland

“State Health Plan for Facilities and Services: Acute Care Hospital Services.” January 2009.

Massachusetts

<http://www.mass.gov/Eeohhs2/docs/dph/regs/105cmr100.pdf>

<http://www.outpatientsurgery.net/news/2010/08/19>

Michigan

http://www.michigan.gov/documents/mdch/Surgical_Standards_204895_7.pdf

Mississippi

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http://msdh.ms.gov/msdhsite/_static/resources/1845.pdf

http://www.msdh.state.ms.us/msdhsite/_static/resources/3346.pdf

http://www.msdh.state.ms.us/msdhsite/_static/resources/3926.pdf

Montana

<http://www.dphhs.mt.gov/qad/certificateofneed/ambulatorysurgicalservices.shtml>

<http://data.opi.mt.gov/bills/mca/50/5/50-5-304.htm>

<http://data.opi.mt.gov/bills/mca/50/5/50-5-301.htm>

<http://www.mtrules.org/gateway/Subchapterhome.asp?scn=37%2E106%2E1>

Nebraska

<http://www.dhhs.ne.gov/crl/statutes/Facilities-Nebraska%20Health%20Care%20Certificate%20of%20Need%20Act.pdf>

Nevada

<http://leg.state.nv.us/NAC/NAC-439.html>
Letter of Approval for Certificate.” http://health.nv.gov/BFHS_CertificateOfNeed.htm “

Oklahoma

http://www.ok.gov/health/Protective_Health/Health_Resources_Development_Service/Health_Facility_Systems_/Certificate_of_Need_Laws_Forms_Rules_and_Reports/index.html#Reports

North Carolina

http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_131E/GS_131E-176.html
http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_131E/GS_131E-183.pdf
<http://www.ncdhhs.gov/dhsr/ncsmfp/2011/2011smfp.pdf>

New Hampshire

<http://www.dhhs.state.nh.us/dphs/hspr/index.htm>
<http://www.dhhs.state.nh.us/dphs/hspr/documents/con304.pdf>

New York

<http://www.health.ny.gov/facilities/cons/>
<http://w3.health.state.ny.us/dbspace/NYCRR10.nsf/56cf2e25d626f9f785256538006c3ed7/7122cd28339b4e0d8525677e0078f960?OpenDocument>
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Rhode Island

Certificate of Need Application. <http://www.health.ri.gov/programs/healthsystemsdevelopment/>
<http://www2.sec.state.ri.us/dar/regdocs/released/pdf/DOH/4837.pdf>

Phone interview with Michael Dexter. Chief, Office of Health Systems Development, Rhode Island Department of Health. April 27, 2011.

South Carolina

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<http://www.scdhec.gov/administration/regs/docs/61-15.pdf>

Phone interview with Beverly Patterson, Health Facilities and Services Development Bureau Chief. South Carolina Department of Health and Environmental Control. April 27, 2011.

Tennessee

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Vermont

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<http://www.bishca.state.vt.us/sites/default/files/REG-H-99-03.pdf>

Virginia

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<http://www.vdh.state.va.us/OLC/Laws/documents/COPN/Condition%20Compliance%20Guidance%20Rev304.pdf>

West Virginia

http://www.hcawv.org/CertOfNeed/Support/Ambulatory_Care_Centers.pdf

<http://www.hcawv.org/CertOfNeed/support/FmAmbulatoryApplication.pdf>